

**REMARKS/ARGUMENTS**

Applicants have received and carefully reviewed the Office Action of the Examiner mailed December 19, 2003. Claim 2 has been canceled, claims 1, 11, 21, 22, 39, and 46 have been amended, and new claims 53-56 have been added. Support for the claim amendments and new claims is found in the specification as originally filed, for example at page 7, lines 3-13 and page 8, lines 3-10. Claims 1 and 3-56 are pending. Reconsideration and reexamination are respectfully requested.

**35 U.S.C. §112, 2<sup>nd</sup> paragraph**

Claim 11 is rejected as lacking sufficient antecedent basis for "the pressure drop." The claim has been amended to provide the proper antecedent support.

Claims 16 and 30 are rejected as indefinite for reciting "a number." Applicants submit that the claims are definite and clear when read as a whole. The phrase in question, "a number of performance parameters" is used in the conventional manner to indicate "various", "some", "one or more", "several", "many", etc. Applicants submit that one of ordinary skill in the art would understand that the number of and type of performance parameters to be passed is dependent on the application.

**35 U.S.C. §102(b)**

Claims 1-5, 9, 20, 39, 40, and 44 are rejected as anticipated by Den Dekker (US 5,674,381). Applicants submit that the claims, as amended, are distinguished from Den Dekker. Independent claims 1 and 39 recite a replaceable media having an attached storage means containing information used by the system controller to adjust the future operation of the system. The filtering apparatus of Den Dekker contains a replaceable filter with an electronic identification label and memory for storing, among other things, the number of operating hours of the filter. The electronic label on the filter of Den Dekker communicates its identification (model number) and the number of operating hours to the control unit of the system. The

system's response to the information communicated from the filter's electronic label is either (1) to operate as usual if the correct filter is in place and has hours of use remaining, or (2) to not operate at all if the wrong filter is in place or the number of operating hours for the filter are exceeded. See column 2, lines 35-42. Thus, the only communication the replaceable filter assembly of Den Dekker has with the system is to prevent the entire system from operating or to shut down the entire system. Rather than merely shutting down the system, the instantly claimed invention actually communicates with the system controller to adjust the future operation, such as modifying how one or more components of the system operates. The only "adjustment" the Den Dekker electronic label achieves is stopping the operation of the system if the filter is the wrong model or is past its recommended hours of operation. As the system is then shut off, this action is not directed to the future operation of the system. The electronic label of Den Dekker does not contain information relating to the future operation of the system, and thus cannot communicate with the system to adjust the future operation of the system, as is instantly claimed. For at least the reasons stated above, Den Dekker does not disclose each and every limitation of the claims and thus cannot be seen to anticipate the claims. Additionally, Den Dekker does not provide any suggestion, motivation, or guidance for modifying the filtering system to achieve the instant invention. Withdrawal of the rejection is respectfully requested.

**35 U.S.C. §103(a)**

Claims 6, 14-19, 21-25, 28-34, 37, 41, 45-48, 51, and 52 are rejected as being unpatentable over Den Dekker. Applicant respectfully traverses the rejection. For the reasons stated above, Den Dekker fails to teach the features of independent claims 1 and 39. Additionally, Den Dekker does not provide any guidance, suggestion, or motivation for one of ordinary skill in the art to modify the teachings to achieve the instant invention.

The entire disclosure of Den Dekker is directed to the replaceable filter being able to prevent the system into which it is placed from running if the filter is the wrong model, and to shut down the system when the filter has been in place beyond its lifespan. There is no

suggestion in Den Dekker of how or why one would modify the filter and its electronic label to adjust the future operation of the system, as is recited in the instant invention.

Regarding claims 17, 31, 46-48, 51, and 52, the Examiner asserts that it would have been obvious that the program could cause the micro-controller to provide a software upgrade to the controller of the system as program driven software upgrades to controller system elements are well-known. Applicant disagrees and requests the Examiner provide a reference teaching this "well-known" feature.

MPEP 2144.03(A) states that official notice without documentary evidence to support an Examiner's conclusion is permissible only where the facts asserted to be well-known are "capable of instant and unquestionable demonstration as being well-known." Applicant is not aware of any replaceable media containing software upgrades for the system in which the media is used. MPEP 2144.03(C) states that if Applicant challenges the Examiner's assertion, the Examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. Applicant hereby requests the Examiner provide such documentary evidence. Alternatively, if the Examiner is relying on personal knowledge to support his assertion, Applicants request the Examiner provide an affidavit or declaration setting forth specific factual statements and explanations in accordance with 37 CFR §1.104(d)(2). Withdrawal of the rejection is respectfully requested.

Claim 38 was rejected as being unpatentable over Den Dekker in view of Wegman (US 6,418,283). For the reasons state above, Den Dekker fails to teach or suggest a replaceable filter assembly that adjusts the future operation of the system, as recited in independent claim 21, upon which claim 38 depends. Wegman does not provide what Den Dekker lacks; thus the combination of Den Dekker and Wegman also fails to teach or suggest the claimed invention. Withdrawal of the rejection is respectfully requested.

Claim 7 was rejected as being unpatentable over Den Dekker in view of Hoague (US 6,186,140). For the reasons state above, Den Dekker fails to teach or suggest a replaceable filter assembly that adjusts the future operation of the system, as recited in independent claim 1, upon which claim 7 depends. Hoague does not provide what Den Dekker lacks; thus the combination

of Den Dekker and Hoague also fails to teach or suggest the claimed invention. Withdrawal of the rejection is respectfully requested.

Claims 10-13, 26, 27, and 35 are rejected as being unpatentable over Den Dekker in view of Polidan (US 5,606,311). For the reasons state above, Den Dekker fails to teach or suggest a replaceable filter assembly that adjusts the future operation of the system, as recited in independent claims 1 and 21, upon which claims 10-13, 26, 27, and 35 depend. Polidan does not provide what Den Dekker lacks; thus any combination of Den Dekker and Polidan also fails to teach or suggest the claimed invention. Additionally, Polidan is directed to a system in which a controller monitors the performance of a conventional car air filter. No storage means is contained on the filter, nor is there any communication between the filter and the car's controller. Thus, there is no motivation to combine the teachings of Den Dekker and Polidan. Withdrawal of the rejection is respectfully requested.

Claim 36 is rejected as being unpatentable over Den Dekker in view of Polidan and further in view of Wegman. As stated above, neither Den Dekker nor Polidan, alone or in combination, teach or suggest the invention of claim 35. Wegman does not provide what Den Dekker and Polidan lack. Withdrawal of the rejection is respectfully requested.

Claims 8, 42, 43, 49, and 50 are rejected as being unpatentable over Den Dekker in view of Beckhusen (US 6,222,445). The Examiner asserts that because Beckhusen teaches determining proper service intervals for brake pads it would have been obvious that brake pad monitoring could be substituted for the air filter monitoring in Den Dekker. Applicant respectfully traverses this rejection. Beckhusen teaches an engine monitoring system in which spark plug pulses are measured and counted as a measure of how long the engine has been running. The brake pads are conventional and do not have a storage means in communication with the monitoring system. The engine monitoring system of Beckhusen uses information relating to how long the engine has been running and the mileage driven in order to determine when the brake pads should be replaced. Beckhusen do not teach or suggest any monitoring of the actual brake pads or braking system. Beckhusen thus provide no motivation, suggestion, or guidance for modifying either the filtration system of Den Dekker or the engine monitoring

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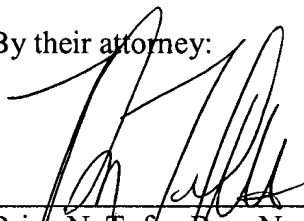
system of Beckhusen to put a storage means with information relating the a system controller on the brake pad. Withdrawal of the rejection is respectfully requested.

Reconsideration and reexamination are respectfully requested. It is submitted that, in light of the above remarks, all pending claims 1 and 3-56 are now in condition for allowance. If a telephone interview would be of assistance, please contact the undersigned attorney at 612-677-9050.

Respectfully Submitted,

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